

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Super Duper, Inc., d/b/a
Super Duper Publications,
a South Carolina corporation,

Plaintiff,

vs.

Mattel, Inc. A Delaware corporation,

Defendant.

Civil Action No. 6:05-1700-HFF-WMC

ORDER

This matter is before the court on the motion in limine no. 10 filed by defendant Mattel, Inc. ("Mattel"). Specifically, Mattel asks that the court preclude plaintiff Super Duper Inc. ("Super Duper") from introducing at trial any evidence that it acted in good faith having searched existing trademarks or otherwise relied upon advice of counsel before using or seeking registration of its SAYS marks.

After a telephone conference on January 29, 2007, on Mattel's motion to compel production of Super Duper's documents related to trademark searches, this court ordered Super Duper to produce its search reports with the opinions of counsel redacted, which Super Duper did. Mattel argues that Super Duper should not be able to object to the disclosure of the advice on the grounds of privilege while at the same time relying on the advice of counsel to defend a claim of willful infringement. A hearing on pending motions was held before this court on November 1, 2007. At that time, motion in limine no. 10 was held in abeyance, and Super Duper was ordered to submit the search reports for *in camera* review.

This court has reviewed the search reports and arguments of counsel and finds that *if* Super Duper intends to introduce at trial any evidence that it acted in good faith having searched existing trademarks and relied upon advice of counsel before using or seeking registration of its SAYS marks, then Super Duper must immediately produce the *unredacted* search reports at issue to Mattel.

IT IS SO ORDERED.

s/William M. Catoe
United States Magistrate Judge

November 15, 2007

Greenville, South Carolina